

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 2147 - SB 2400

March 14, 2022

SUMMARY OF BILL AS AMENDED (015650): Increases the age of a victim whose testimony the court may allow to be taken outside the courtroom by means of two-way closed-circuit television from 13 years of age or younger to under 18 years of age.

Adds human trafficking offenses to those for which a court is required to extend an order of protection for a definite period of time if the allegation is proved by a preponderance of the evidence.

Requires the Department of Children's Services (DCS) to develop a policy to assist foreign national children suspected of being a victim of human trafficking. Requires DCS to develop, maintain and distribute to juvenile justice agencies, assessment tools to screen system-involved children at risk of human trafficking.

Prohibits prosecution for the offense of prostitution as a juvenile or as an adult, for a victim of trafficking for a commercial sex act under the age of 18 years of age.

Provides exception to certain restrictions on expunction for a victim of a human trafficking offense, at no cost to the individual.

Enhances the penalty for involuntary servitude, from a Class B felony to a Class A felony, if the victim was a minor.

Enhances the penalty for trafficking for forced labor or services, from a Class C felony to a Class A felony, if the victim was a minor.

Increases the age of a victim for Class A felony trafficking for commercial sex act, from a child under 15 years of age to a minor.

Enhances the penalty for promoting prostitution, from a Class B felony to a Class A felony, if the victim is a minor, and from a Class D felony to a Class A felony, if the person has an intellectual disability.

FISCAL IMPACT OF BILL AS AMENDED:

NOT SIGNIFICANT

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Assumptions for the bill as amended:

Involuntary Servitude

- Based upon information provided by the Department of Correction (DOC), there has been zero admissions in each of the last 10 years for the Class B felony offense under Tenn. Code Ann. § 39-13-307 for involuntary servitude.
- There will not be a sufficient number of Class A felony prosecutions for state government to experience any significant increase in revenue or expenditures.

Trafficking for Forced Labor or Services

- Pursuant to Tenn. Code Ann. § 39-13-308, trafficking for forced labor or services is a Class C felony offense.
- The proposed legislation enhances the penalty to a Class A felony if the victim was a minor.
- Based upon information provided by the DOC, there has been 0.1 admissions in each of the last 10 years for the Class C felony offense under Tenn. Code Ann. § 39-13-308 for trafficking for forced labor or services.
- There will not be a sufficient number of Class A felony prosecutions for state government to experience any significant increase in revenue or expenditures.

Trafficking for a Commercial Sex Act

- Pursuant to Tenn. Code Ann. § 39-13-309, trafficking for a commercial sex act is a Class B felony offense.
- The penalty is enhanced to a Class A felony if the victim is under 15 years of age or where the offense occurs on the grounds or facilities or within 1,000 feet of a public or private school, secondary school, preschool, child care agency, public library, recreational center, or public park.
- Based upon information provided by the DOC, there has been 2.2 admissions in each of the last 10 years for the Class B felony offense under Tenn. Code Ann. § 39-13-309 for trafficking for a commercial sex act.
- It is reasonably assumed that 10 percent or 0.22 (2.2 x 10.0%) of such admissions will be classified as a Class A felony under the proposed legislation.
- Pursuant to Tenn. Code Ann. § 40-35-501(aa)(2)(C), a person who commits trafficking for a commercial sex act, on or after July 1, 2021 is required to serve 100 percent of the sentence imposed by the court undiminished by any sentence reduction credits.
- The average sentence for trafficking for a commercial sex act is 10 years.
- The average time served for a Class A felony offense is 13.79 years.
- This analysis estimates the highest cost for admissions in the next 10 years; therefore, any additional time added by the proposed legislation resulting in sentences exceeding 10 years in length surpass the window of this analysis.

Promoting Prostitution

- Pursuant to Tenn. Code Ann. § 39-13-515, promoting prostitution is punishable as trafficking for a commercial sex act under Tenn. Code Ann. § 39-13-309 if the person being promoted is less than 18 years old. Trafficking for a commercial sex act is a Class B felony offense.

- It is reasonably assumed any increase in incarceration costs associated with promoting prostitution for a person less than 18 years old has been accounted for within the increase in expenditures for trafficking for a commercial sex act.
- Pursuant to Tenn. Code Ann. § 39-13-515, promoting prostitution is a Class D felony offense if the victim has an intellectual disability.
- Based upon information provided by the DOC, there has been zero admissions in each of the last 10 years for the Class D felony offense under Tenn. Code Ann. § 39-13-515 for promoting prostitution where the victim has an intellectual disability.
- There will not be a sufficient number of Class A felony prosecutions for state government to experience any significant increase in revenue or expenditures.

Expunctions

- The proposed legislation requires a victim of a human trafficking offense who applies for expunction to be at no cost to the individual.
- Pursuant to Tenn. Code Ann. § 8-21-401(d)(3), the court clerk is authorized to charge a fee up to \$100 for expungements.
- Public Chapter 200 of 2019 removed the \$180 fee for an individual petitioning the court for an expunction of certain criminal offenses and the \$350 fee for a defendant applying for expunction of an offense following the completion of a diversion program.
- There will not be a significant change in the number of petitions for expunction filed for state government to experience any change in revenue or expenditures.
- Based on information provided by the DCS, the proposed legislation will have no impact on the operations of the Department; therefore, any fiscal impact to DCS is estimated to be not significant.
- There will not be a sufficient change in the number of prosecutions for state or local government to experience any significant change in revenue or expenditures.
- Any impact to the court system as a result of the proposed legislation is estimated to be not significant.
- The estimated fiscal impact of the proposed legislation does not consider the availability of beds in state and local facilities, but is based solely on the current operating costs of state facilities and the reimbursement rates for local facilities as is required by Tenn. Code Ann. § 9-4-210.
- All calculations used in completion of this fiscal note are available upon request.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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